IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3692 OF 2005

Vijay Kumar Rampyare Mishra ...Applicant
vs.
State of Maharashtra ...Respondent

Ms Ramlaxmi Palli for the Applicant
Ms M.M.Deshmukh,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : JULY 1,2005.

P.C.:

1. Heard Counsel appearing for the parties. It appears that on 26th April 1998 the Applicant was arrested in connection with the offence registered under Sections 452,397,398,393 read with Section 34 of Indian Penal Code and 37 (i) (2) of Bombay Police Act,1951. In July 1998 he was ordered to be enlarged on bail. It appears that the Applicant did not attend the dates fixed in the Sessions Court and therefore non-bailable warrant was ordered to be issued and consequently he was arrested on 10th September 2004.

2. The Applicant applied for bail before the learned Sessions Judge which came to be rejected by order dated 30th September 2004. The main ground of rejection of application for bail is that the Applicant could not produce any document showing that he is permanent resident of Mumbai. The learned Judge also observed that the Applicant has once jumped the jail. The second application for bail was rejected by the learned Additional Sessions Judge on 27th April 2005.

3. A case made out by the Applicant is that the case was lying before the Registrar of the Sessions Court and was notified for the first time on 20th May 2002. According to the Applicant no intimation was given to him about the matter being taken on board. it is stated that the Applicant is working as a casual labourer.

4. The learned Additional Sessions Judge rejected the Application mainly on the ground that the Applicant does not have any proof to show that he is a permanent resident of Mumbai. In the facts of the case the application for bail could not have been rejected on the ground that the Applicant is not a permanent resident of Mumbai. The Applicant was enlarged on bail earlier and suddenly in the year 2002 the case was taken on board of the Sessions Court. If the Applicant does not have any document to show that the Applicant is permanent resident of Mumbai, condition could have been imposed directing him to furnish local sureties. The Applicant had earlier spent two and half months in custody and now from 10th September 2004 he is in jail. A case is made out for grant of bail.

5. Hence I pass the following order :

i) The Applicant shall be enlarged on bail in Sessions Case No.816 of 1998 subject to furnishing a personal bond of

Rs.5000/- (Rupees five thousand only) with one or two sureties in the like amount.

ii) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iii) The Applicant shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) The Applicant shall be enlarged on bail only after the Applicant submits address of his place of residence to the Superintendent of the concerned jail.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

Judge